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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/488,686	01/20/2000	LOI NGUYEN	93-C-078C1 (1678-20)	4788

30431 7590 07/06/2007
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EXAMINER

WILLIAMS, ALEXANDER O

ART UNIT	PAPER NUMBER
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2826

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/488,686

Applicant(s)

NGUYEN ET AL.

Examiner

Alexander O. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/18/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Serial Number: 09/488686
RE(1620)

Attorney's Docket #: 93-C-078C1-

Filing Date: 1/20/00;

Applicant: Nguyen et al.

Examiner: Alexander Williams

Applicant's Response filed 11/18/05 has been acknowledged.

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

Claims 1-34 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

The reissue declaration was filed 4/17/200, whereas claims have been amendment since that declaration. There are errors not covered by an oath or declaration. Applicant must submit a supplemental oath or declaration. See 37 CFR 1.175(b)(1) and MPEP 1414.01. Form PTO/SB/51S may be used by the applicant to prepare a supplemental reissue declaration.

Claims 1-34 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester*

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Industries, Inc. v. Stein, Inc., 142 F.3d 1472, 46 USPQ2d 1641

(Fed. Cir. 1998); In re Clement, 131 F.3d 1464, 45

USPQ2d 1161 (Fed. Cir. 1997); Ball Corp. v. United States, 729

F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A

broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to claim subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

In claims 26, 27 and 33, recapture appear to exist in the reissue because the limitation of "multiple independently planarized layers of dielectric material" do not appear to be in the claims language upon which Applicant based the patentability of the claims where in the original application the narrowed claim scope was presented/argued to obviate a rejection/objection. See MPEP 1412.02.

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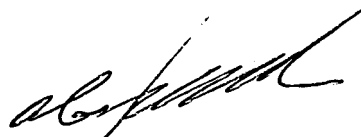
Field of Search	Date
U.S. Class and subclass: 257/754,760,640,904,752,903,350,380-382,755- 758,908,905,384,760,640,740,e21.243,e21.666	4/30/02 1/18/05 9/14/05 6/29/07
Other Documentation: foreign patents and literature in 257/754,760,640,904,752,903,350,380-382,755- 758,908,905,384,760,640,740,e21.243,e21.666	4/30/02 1/18/05 9/14/05 6/29/07
Electronic data base(s): U.S. Patents EAST	4/30/02 1/18/05 9/14/05 6/29/07

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander O Williams whose telephone number is (571) 272 1924. The examiner can normally be reached on M-F 6:30-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sue Purvis can be reached on (571) 272 1236. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alexander O Williams
Primary Examiner
Art Unit 2826

AOW
6/29/07